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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 097,243	06 12 1998	JOSEPH S. MANNE	MAN-4	2724

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MUSERLIAN AND LUCAS AND MERCANTI, LLP
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NEW YORK, NY 10016

EXAMINER

FULLER, RODNEY EVAN

ART UNIT PAPER NUMBER

2851

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/097,243

Applicant(s)

MANNE, JOSEPH S.

Examiner

Rodney E Fuller

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-7, 9, 11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-7, 9, 11, 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 1998 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of Allowance (PTO 413) (Page No. _____)
- ☐ Notice of Draftsman's Patent Law Examination (PTO 413) (Page No. _____)
- ☐ Information Disclosure Statement(s) (PTO 413) (Page No. _____)
- ☐ Interview Summary (PTO 413) (Page No. _____)

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examiner maintained that the modification of Knight would be obvious to one of ordinary skill in the art (See 35 USC 103(a) Rejection below). Further, the examiner maintains that Knight does disclose a scent generator (Fig. 4, ref.# 102). Hence, the examiner has considered the applicant's arguments and maintains the rejection.

Drawings

5. New corrected drawings are required in this application because the application was filed with informal drawings. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (US

Martin (US 2006/010441) discloses all the structure set forth in the claim except wherein the scent delivery system is portable and wherein the nasal interface is

"...selected from the group consisting of a nose mask, a face mask, a T-joint and a wishbone." However, the use of a mask for enclosing the nose is routine in the art as is evident from the teaching of Blasdell (US 5,109,839) (see abstract and Figure 1, ref.# 22). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Martin (US 5,610,674) by wherein the fragrance dispensing end (Fig. 1, ref.# 37, Martin) is used with a face mask. The ordinary artisan would have been motivated to modify Martin in the manner described above for at least the purpose of preventing smells from the outside environment from reaching the user and thus degrade the smell come from the fragrance dispenser. As for the limitation wherein the system is portable, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the limitation wherein a case is "...adapted to be worn by a user on the user's body such that said user is ambulatory when wearing said case and thereby making the system portable." since it has been held that making an old device portable or movable without producing a new and unexpected result involves only routine skill in the art. *In re Lindberg*, 93 USPQ 23 (CCPA 1952).

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knight (US 5,522,253).

Knight (US 5,522,253) discloses all the structure set forth in the claim except wherein a

obvious to one having ordinary skill in the art at the time the invention was made to include the

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limitation wherein a case is "...adapted to be worn by a user on the user's body such that said user is ambulatory when wearing said case and thereby making the system portable." since it has been held that making an old device portable or movable without producing a new and unexpected result involves only routine skill in the art. *In re Lindberg*, 93 USPQ 23 (CCPA 1952).

Allowable Subject Matter

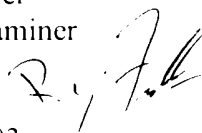
9. Claims 3-7, 9, 11, 13 and 14 were previously allowed in the Notice of Allowability mailed May 8, 2002.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney Fuller whose telephone number is (703) 306-5641. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams, can be reached on (703) 308-2847.

Rodney Fuller
Primary Examiner



May 22, 2003